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In re Application of:	:	
DA SILVA RODRIGUES, et al.	:	DECISION ON SUBMISSION
U.S. Application No.: 10/581,774	:	UNDER 37 CFR 1.42
PCT No.: PCT/IB2004/004350	:	
Int'l Filing Date: 10 December 2004	:	
Priority Date: 11 December 2003	:	
Attorney's Docket No.: SC3	:	
For: SMOKING ARTICLE	:	

This decision is issued in response to applicant's "Response To Notification Of Missing Requirements Under 35 U.S.C. 371" filed 14 March 2007, treated in part herein as a request for status under 37 CFR 1.42. No petition fee is required.

**BACKGROUND**

In a decision mailed by this Office on 20 October 2006, the PCT Rule 4.17(iv) declaration filed by applicants was rejected as failing to comply with the instructions for such declarations and the requirements of 37 CFR 1.497. The decision also noted that, since one of the inventors was deceased, any subsequently submitted declaration would need to comply with the requirements of 37 CFR 1.42 and 1.497(b)(2).

On 17 November 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 14 March 2007, applicants filed the "Response To Notification Of Missing Requirements Under 35 U.S.C. 371" considered herein.<sup>1</sup> The response included payment of the required surcharge and a revised declaration executed by the surviving inventor and on behalf of the deceased inventor, Antonio Augusto da Salva Rodrigues, by his legal representative, Nadia Maria de Almeida Rodrigues. This declaration is considered herein under 37 CFR 1.42 and 37 CFR 1.497.

**DISCUSSION**

The previous decision set forth the requirements for compliance with 37 CFR 1.42 and 37 CFR 1.497(b)(2).

<sup>1</sup> Applicants' response was supplemented on 15 March 2007 with payment of the two-month extension fee required for the 14 March 2007 submission to be treated as a timely response to the Form PCT/DO/EO/905.

The declaration filed herein on 14 March 2007 complies with such requirements in that it is executed by the surviving inventor and on behalf of the deceased inventor by a person specifically identified as the legal representative and wife of the deceased inventor, and it includes the required citizenship, residence, and mailing address information for the legal representative, the citizenship of the deceased inventor, and all other information required under 37 CFR 1.497(a) and (b).

**CONCLUSION**

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Antonio Augusto da Salva Rodrigues is **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 14 March 2007.



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